

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
18 DHR 04154

STRATEGIC BEHAVIORAL HEALTH-CHARLOTTE,)	
)	
)	
Petitioner,)	
)	
v.)	SETTLEMENT AGREEMENT
)	
PARTNERS BEHAVIORAL HEALTH MANAGEMENT, a legally authorized)	
contractor or and agent for N.C. Department)	
of Health and Human Services,)	
)	
Respondent.)	
)	

NOW COMES Strategic Behavioral Health–Charlotte, 1715 Sharon Road West, Charlotte, North Carolina 28210, (“SBH-Charlotte” or “Petitioner”) and PARTNERS BEHAVIORAL HEALTH MANAGEMENT, a legally authorized contractor of and agent for N.C. Department of Health and Human Services (“Partners” or “Respondent”) (collectively referred to hereinafter as “the parties”) pursuant to N.C. Gen. Stat. § 150B-22, to enter into the following Settlement Agreement (“Agreement”) in order to settle and compromise all claims arising out of the above-captioned contested case.

RECITALS

WHEREAS, SBH-Charlotte is a North Carolina limited liability company (legal business name SBH Charlotte, LLC) licensed by the Department pursuant to N.C. Gen. Stat. § 122C, Article 2 and 10A N.C.A.C. Subchapter 27G to operate a mental health facility known as Strategic Behavioral Center, MHH #0977, in Mecklenburg County, North Carolina; and

WHEREAS, Partners is an area authority, local management entity (“LME”) and managed care organization (LME/MCO) for publicly funded mental health, developmental disabilities, and substance abuse (“MH/DD/SA”) services as defined in N.C. Gen. Stat. § 122C-3 (1), (20b) and (20c) and -116(a); and Partners operates as a prepaid inpatient health plan (“PIHP”) pursuant to 42 C.F.R. § 438.2, which are authorized to operate Medicaid managed care programs pursuant to Medicaid waivers; and in this capacity, Partners operates as an LME/MCO within eight North Carolina counties: Burke, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry and Yadkin; and

WHEREAS, SBH-Charlotte is the Petitioner in this contested case docketed as 18 DHR 04154 against Partners in which the parties have issues surrounding the credentialing and status of Petitioner in Partners' provider network ("Dispute"); and

NOW THEREFORE, the parties have decided to resolve this matter and Dispute without further proceedings or the necessity of a contested case hearing and in the manner set forth below.

AGREEMENT

1. Voluntary Dismissal With Prejudice. Within two (2) business days of execution of this Agreement by Partners, Petitioner shall file a Notice of Voluntary Dismissal with Prejudice in the Office of Administrative Hearings (OAH) dismissing the above captioned contested case.

2. SBH-Charlotte Not Prevented from Reapplying to Partners' Network. As noted in the May 8, 2018 letter underlying this Dispute, Partners' prior termination of SBH-Charlotte does not prevent SBH-Charlotte from reapplying to Partners' network at a later date when there is data showing that the program continues to enforce and monitor changes that were made as a result of the initial concerns for a longer period of time.

3. Voluntary Termination from Network. Partners agrees to accept this Settlement Agreement as a voluntary termination by SBH-Charlotte from Partners' network.

4. No Admission. The penalties, alleged violations and/or deficiencies, citations, and suspension of admissions that are the subject of the petition for contested case hearing are disputed matters, and the execution of this Agreement does not constitute an admission by either party of any error, liability, noncompliance with law or regulation, or the exceeding of authority.

5. Credentialing, Contracting and Enrollment in Partners' Network. SBH-Charlotte acknowledges that credentialing, contracting and enrollment in Partners' closed provider network is separate and distinct from enrollment with the State of North Carolina Medical Assistance Plans' open provider network. Each party hereto represents itself only and acknowledges that the State of North Carolina is not a party to this matter and that Partners signs this Agreement on its own behalf regarding its own provider network. Partners does not represent any other payors and/or their networks, whether or not Medicaid related.

6. Waiver of Rights. The parties irrevocably waive any right to initiate an appeal from this Agreement, assuming that any such right exists, provided that nothing in this Agreement shall be construed to waive any claim for enforcement or breach of this Agreement. The parties reserve the right to intervene in any appeal of the Agreement that might possibly be filed by any third parties. The parties acknowledge that prior or coterminous execution and satisfaction of a separate agreement between Partners and Petitioner's counsel, Nelson Mullins, is a material condition precedent to this Agreement.

7. Merger. The parties further agree and acknowledge that this written Agreement sets forth all of the terms and conditions between them concerning the subject matter of this Agreement, superseding all prior oral and written statements and representations, and that there are no terms or conditions between the parties except as specifically set forth in this Agreement and the aforementioned Partners-Nelson Mullins agreement.

8. Modification or Waiver of Terms. No modification or waiver of any provision of this Agreement shall be effective unless it is in writing. Any modification or waiver must be signed by authorized representatives of the parties and must be adopted and approved by the Director of the Division of Health Service Regulation.

9. No Strict Interpretation Against Draftsman. Each of the parties has participated in drafting this Agreement and has had the opportunity to consult with counsel concerning its terms. This Agreement shall not be interpreted strictly against any one party on the ground that it drafted the Agreement.

10. Recitals and Headings. All parts and provisions of this Agreement, including the recitals and paragraph headings, are intended to be material parts of this Agreement.

11. Expenses. The parties agree that each party shall bear its own expenses, including attorney's fees, and that no claim for such costs or expenses shall be made by one party against the other.

12. Authority to Settle. Each of the undersigned represents and warrants that it is authorized to enter into this Agreement on behalf of Petitioner and Respondent, respectively.

13. Electronically Scanned Signatures Binding. In order to expedite the signing of this Agreement, the delivery of an executed signature page by one party to the other via facsimile, telecopier, or e-mail transmission shall bind the transmitting party to the same extent as service of the original signature page by hand or mail delivery. A party that sends a signature page via facsimile, telecopier, or e-mail transmission shall mail the original to the other party within five (5) business days after the transmission, unless executed by a valid e-signature process such as DocuSign used by Partners.

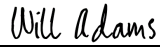
14. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, and assigns.

IN WITNESS WHEREOF, the parties have executed duplicate original copies of this settlement agreement, with one original copy being retained by each party.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

This the 29th _____ day of August, 2018.

Accepted and Agreed on behalf of Strategic Behavioral Center, SBH Charlotte, LLC


By:  DocuSigned by: 8/29/2018 | 3:39 PM EDT

Will Adams Date
Vice President of Operations- East Region
SBH Charlotte, LLC

By:  DocuSigned by: 8/29/2018 | 12:37 PM PDT

Fred M. Wood, Jr. Date
NELSON MULLINS RILEY & SCARBOROUGH LLP
301 South College Street, 23rd Floor
Charlotte, North Carolina 28202
Attorney for SBH Charlotte, LLC

Accepted and Agreed on behalf of Partners Behavioral Health Management

By:  DocuSigned by: 8/30/2018 | 12:09 PM PDT

Andrew M. Walsh Date
Chief Legal Officer & General Counsel
Partners Behavioral Health Management